# Exhibit 70

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          *** CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER ***
 1               IN THE UNITED STATES DISTRICT COURT

 2          FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

 3                        ---o0o---

 4   STUDENTS FOR FAIR ADMISSIONS,
     INC.,
 5
                      Plaintiff,
 6                                         CIVIL ACTION NO.
     vs.                                   1:14-CV-00954-LCB-JLW
 7
     UNIVERSITY OF NORTH CAROLINA,
 8   et al.,

 9                    Defendants.
     _____/
10

11

12    ***** CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER *****

13

14          DEPOSITION OF CAROLINE M. HOXBY, Ph.D.

15
     DATE:             Wednesday, July 18, 2018
16

17   TIME:             9:11 a.m.

18
     LOCATION:         525 University Avenue, Suite 1400
19                     Palo Alto, California 94301

20

21   REPORTED BY:      ADRIENNE L. ANDREINI
                       Certified Shorthand Reporter
22                     License No. 4804

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 1   academic preparation and admissions, including a

 2   student's writing abilities, a student's special

 3   intellectual abilities, including grade-point averages,

 4   including class rank, including all kinds of other

 5   coursework that a student has completed, things like

 6   that.

 7        Q.   Okay.

 8             So, given that standardized test scores are not

 9   a full measure, as you said, do you consider any of

10   these other metrics in evaluating race-control

11   alternatives?

12        A.   Because I needed to focus on an indicator that

13   was going to be relatively consistent across students

14   from different high schools, I did focus on SAT scores

15   and ACT scores as the best indicator available to me.

16        Q.   Okay.

17             And you said that you do not use high-school

18   GPA or class rank?

19        A.   In what context?

20        Q.   I'm sorry.  To measure academic preparedness in

21   the context of race-control alternatives.

22        A.   I use high-school GPA and class rank in many

23   places in my reports, so it's difficult for me to answer

24   your question, just because I'm not sure, sort of, to

25   which part of the reports you're referring.

 1     Q.    So, is it fair to say you've used high-school

 2   GPA and class rank sometimes in assessing the

 3   workability of race-control alternatives?

 4     A.    In order to construct a race-control

 5   alternative, one of the things that one has to do is to

 6   try and understand who would apply and who would be

 7   admitted; and, in those stages, what one might call an

 8   application model or an admissions model, I certainly do

 9   use class rank and GPA.

10     Q.    Okay.

11           Would you see a problem with using GPA or class

12   rank alone aside from standardized test scores?

13           MS. FLATH:  Objection.

14           THE WITNESS:  In the context of a model, or in

15   the context of the outcomes of a plan?

16           MR. McCARTHY:  Q.  In the context of the

17   outcome of a plan.

18     A.    I see.  Yes, I would think that would be

19   problematic to use class rank or GPA just by itself

20   because different high schools have such different

21   grading standards in the United States, and, therefore,

22   you would not be able -- or, I would not be able to tell

23   whether academic preparation had actually improved or

24   gotten worse, or whether it was merely that I was

25   drawing students from high schools where the grading

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 1    curve was more generous or less generous.

 2        Q.    Okay.

 3            Do you have an opinion as to whether it would

 4    be better to use -- Again, let me back up.  This is

 5    talking about evaluating the outcomes, the results of

 6    race-control alternatives.

 7            Do you have an opinion as to whether it's --

 8    would be better or worse to consider standardized test

 9    scores in conjunction with high-school grades or

10    standardized test scores alone?

11            MS. FLATH:  Objection.

12            THE WITNESS:  My opinion would be that it would

13    be better to consider standardized test scores alone,

14    unless one had some ability to put each GPA in -- in a

15    context for which we don't really have any data.

16            So, it's not that I would object to the notion

17    of doing it if we had the data to do it, but those sort

18    of data don't exist on high schools in the United

19    States.

20            MR. McCARTHY:  Q.  Okay.

21            Are you aware that research indicates that

22    high-school GPA is considered the best predictor of

23    college academic performance?

24        A.    I am aware that there are claims that that is

25    true.

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 1       Q.   Are you aware that -- Are you aware that that

 2    is the opinion of Jennifer Kretchmar of UNC?

 3            MS. FLATH:  Objection.

 4            THE WITNESS:  I believe that's outside my

 5    assignment.

 6            MR. McCARTHY:  Q.  Okay.

 7            She gave testimony in this case -- She's the

 8    head of the UNC office of information assessment.

 9            Did you review that deposition in connection

10    with this?

11       A.   No, I did not.

12       Q.   Are you familiar with the term "SES" or

13    "socioeconomic status"?

14       A.   Yes, sir, I am.

15       Q.   Can you tell me what that refers to.

16       A.   "SES," if you don't mind my using the

17    abbreviation --

18       Q.   Please do.  I'm going to use it, too.  We'll

19    know what each other's talking about.

20       A.   Okay.

21            "SES" is a general term that describes -- to --

22    to describe a person's socioeconomic status, and it can

23    be based on a wide variety of indicators, although some

24    indicators are almost always included in notions of SES.

25    For instance, family income is almost always included in

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 1   notions of SES, parents' education.  Often, there are

 2   additional indicators about someone's neighborhood or

 3   their environment.  All of those things might be

 4   included.  But it is not a simple measure, nor is there

 5   one -- there is no one accepted measure of SES.

 6        Q.   Okay.

 7             In evaluating race-control alternatives in your

 8   work in this case, you used several different measures

 9   of SES; correct?

10        A.   That is correct.

11        Q.   And you created multiple simulations using

12   SES-based strategies; correct?

13        A.   Yes.

14        Q.   In evaluating those strategies, are you

15   concerned only with the extent to which those strategies

16   helped boost racial and ethnic diversity, or are you

17   also concerned about SES diversity?

18             MS. FLATH:  Objection.

19             THE WITNESS:  My assignment was to evaluate

20   whether alternative plans -- or, rather, how alternative

21   plans would affect racial and ethnic diversity and

22   academic preparation.

23             MR. McCARTHY:  Q.  So, your assignment did not

24   involve assessing the extent to which any race-control

25   alternative you considered advanced socioeconomic
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1          MS. FLATH:  Objection.

2          THE WITNESS:  Let's say I wanted to identify

3   students who came from households that were in poverty.

4   Just to -- want to make sure that --

5          MR. McCARTHY:  Q.  Sure.

6      A.    -- getting the question exact.

7          My measure for identifying whether a student

8   was from a family that was in poverty was an indicator

9   for the -- for the student's family being below the

10  federal poverty line, then if that -- if my indicator

11  said that the student's family was below the federal

12  poverty line, and I was trying to identify students who

13  were in poverty, then it would not be a false positive.

14  In fact, I would have no false positives or false

15  negatives in the situation I just described.

16      Q.  Understood.

17          So, in your reports, consistent with the fact

18  that SES diversity is not part of your assignment, you

19  don't report SES diversity resulting from your outcomes,

20  do you?

21      A.   I don't.  I do not report results for SES

22  diversity.

23          MS. FLATH:  Objection.

24          Make sure you give me the chance to object

25  before answering.

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 1             THE WITNESS:  Okay.

 2             MR. McCARTHY:  Q.  So, aside from your work

 3    here, do you have an opinion on whether SES diversity is

 4    an appropriate goal for a university?

 5             MS. FLATH:  Objection.

 6             THE WITNESS:  That's not in my assignment for

 7    this report -- or these reports.

 8             MR. McCARTHY:  Q.  Okay.

 9             So, outside of your assignment for these

10    reports, do you have an opinion?

11             MS. FLATH:  Objection.

12             THE WITNESS:  In my research, my published

13    research, I have certainly written about the admission

14    of economic-disadvantaged students, but -- so, I suppose

15    I have a research interest in it.  I'm not, however, an

16    academic leader or administrator, so I do not have an

17    expert opinion on that.

18             MR. McCARTHY:  Q.  Okay.

19             Can you turn to Page 47 of your opening report.

20    A.    Yes.

21    Q.    Do you see Paragraph 134?

22    A.    Yes.

23    Q.    The first sentence of Paragraph 134 says:

24             "It is worth reiterating at the outset of

25    this section that attaining socioeconomic
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 1   that University of North Carolina does consider it to be

 2   one of its goals, but I do not have a -- do not have

 3   what I would call a specific understanding.

 4          MR. McCARTHY:  Q.  Now, I know that you said

 5   that you don't have an expert opinion on whether SES

 6   diversity is an appropriate goal, but just to follow

 7   from that:  Do you have an opinion on whether increasing

 8   SES diversity would help a university attain the

 9   educational benefits of diversity?

10          MS. FLATH:  Objection.

11          THE WITNESS:  Attain the educational benefits

12   of diversity?  Was that the question?

13          MR. McCARTHY:  Q.  Yes.

14     A.   I don't have an expert opinion on that.

15     Q.   Okay.

16          I'll hand you a copy of what will be marked as

17   Exhibit No. 4.

18                          (Whereupon Plaintiff's Exhibit 4

19                            was marked for identification.)

20          MR. McCARTHY:  Q.  Can you take a look at that

21   document.

22     A.   Yes.

23     Q.   Have you ever seen this document before?

24     A.   No.

25     Q.   No.

1    A.   I evaluate each alternative relative to what

2   UNC attains actually now under its current plan.

3    Q.   So, that's what I'm asking you to do now with a

4   hypothetical one.

5        Let's say we're starting from UNC status quo,

6   and you evaluated a race-control alternative that would

7   increase URM representation by five percent but decrease

8   SAT scores by an average of a hundred points.

9        Is that one that you would say is workable, not

10  workable?

11       MS. FLATH:  Objection.

12       THE WITNESS:  I can't answer that question

13  within my assignment.

14       MR. McCARTHY:  Q.  Why not?

15   A.   Because in order to answer that question, I

16  would have to have expertise in knowing what the

17  trade-off between the two -- the two goals were, and

18  that is not in my assignment.

19   Q.   Okay.

20       So, you don't have expertise in determining how

21  much of an increase in URM representation might outweigh

22  or be outweighed by a decrease in SAT scores?

23       MS. FLATH:  Objection.

24       THE WITNESS:  It's not in my assignment to know

25  what critical mass would be for UNC, so I cannot opine

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 1   on that matter.

 2            MR. McCARTHY:  Q.  Okay.

 3            So, if I changed the numbers and said okay,

 4   same hypothetical, but the URM representation goes,

 5   let's say, down two percent, and the average SAT score

 6   goes up 50 points, same answer; you can't evaluate that?

 7            MS. FLATH:  Objection.

 8            THE WITNESS:  It's not in my assignment to --

 9   to evaluate critical mass at UNC.

10            MR. McCARTHY:  Q.  Okay.

11            It is your assignment to evaluate race-control

12   alternatives; correct?

13       A.   It is in my assignment to predict what would

14   happen under race-neutral alternatives, yes.

15       Q.   Okay.

16            But you do express opinions in your reports

17   whether you think certain race-control alternatives

18   would be workable, don't ya?

19       A.   I consistently compare what I predicted under

20   each race-control alternative to UNC's actuals.

21       Q.   And you did express opinions and say, at times,

22   this race-control alternative would not work; correct?

23       A.   I say, at various times in the report, this

24   race-neutral alternative is not predicted to achieve

25   UNC's current actuals.
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1    compare to UNC's actuals but not really expressing

2    opinion as whether race-control alternative would work

3    or not work.

4              MS. FLATH:  Objection.

5              MR. McCARTHY:  Q.  But this seems to actually

6    say that they wouldn't work.  Am I correct about that?

7         A.   In this context, what I mean is that there is

8    no race-blind alternative in which I predicted that UNC

9    could achieve its actuals.

10        Q.   Okay.

11             So, that sentence -- I just want to make sure I

12   understand.

13             What that sentence means is that you have not

14   found a race-control alternative that meets UNC's

15   actuals.

16        A.   I have not found a race-blind alternative that

17   is predicted, under my analysis, to -- to achieve UNC's

18   alternatives.

19        Q.   Okay.

20             By "actuals" -- We mentioned before levels of

21   URM representation and SAT scores, but are there other

22   actuals that you had in mind as well?

23        A.   Those are the actuals I looked at throughout my

24   reports.

25        Q.   Okay.